

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. Both petitioner and his wife are employed. Over the past three years, petitioner has been employed by one employer whose business is seasonal (open from May to mid October). Petitioner has cobbled together other jobs and

unemployment compensation to provide income year round.

Petitioner and his spouse received VHAP. When petitioner and his spouse first qualified for VHAP, they were a four person household because a son resided with them.

3. On or about May 8, 2008, HAEU sent the petitioner a reminder notice with an Application for Health Care Assistance to complete and return to HAEU. HAEU needed the Application to redetermine whether petitioner and his spouse still met the eligibility criteria for VHAP.

4. Petitioner returned the Application for Health Care Assistance to HAEU on or about June 3, 2008. In that application, petitioner supplied current wage information. He informed HAEU that his bi-weekly wages in May included gross wages of \$1,707.75 and \$1,392.15. He informed HAEU that his spouse's gross weekly wages in May were \$650.85, \$663.45, \$591.75, and \$668.63.

5. HAEU calculated the countable income giving both petitioner and his spouse the standard \$90 employment deduction and giving his spouse a dependent care deduction. HAEU correctly determined that petitioner had countable income of \$3,210.33 per month and his spouse had countable income of \$2,570.28 per month for a total household income of \$5,780.61 per month. The household's countable income

exceeded the VHAP income limit of \$2,722 for a household of three and exceeded the maximum CHAP income limit of \$4,413 for a household of three.

6. HAEU sent petitioner a Notice of Decision on or about June 12, 2008 informing petitioner that the family's VHAP would close June 30, 2008 because they were over income and that the family did not qualify for CHAP because they were over income. Petitioner and his spouse were found eligible for Healthy Vermonters.

7. Petitioner filed an appeal and a fair hearing was held on July 18, 2008.

8. Petitioner and his spouse testified. They do not understand how they were eligible for VHAP in the past since their present income is comparable to their past income.¹ Petitioner testified that his May wages included significant overtime and were not representative of his regular earnings. Petitioner earns \$13.50 per hour at his present employer.

9. Petitioner's gross monthly income without overtime is \$2,322.00. His countable monthly income after applying the standard employment deduction is \$2,232.00. The

¹ Household income maximums are higher for a four person household, the family's income may have been significantly lower in the month they first applied, and/or HAEU may have made a mistake in petitioner's favor.

household's countable monthly income is \$4,802.28 which is still above the income maximums for VHAP and CHAP.

10. Petitioner was informed that if his income changes, he can reapply for assistance.

ORDER

The Department's decision is affirmed.

REASONS

The VHAP program provides health insurance for households whose countable income is equal to or less than 185 percent of the Federal Poverty Level (FPL). The Department has promulgated regulations that set out how to determine countable income. All earned and unearned income is considered except for certain deductions such as the \$90.00 employment disregard and/or a dependent care disregard. W.A.M. § 4001.81(c) and (e). There is no dispute that as of the date of recommending closure of their VHAP eligibility and hearing that the petitioner's household had countable income in excess of \$2,722, the maximum for eligibility under the VHAP program for a three person. P-2420B.

The Vermont Legislature passed Act 191, An Act Relating to Health Care Affordability in 2006 that includes premium

assistance for uninsured adult Vermonters who are not eligible for the Vermont Health Access Program (VHAP) and whose income is equal to or less than 300 percent of the Federal Poverty Level (FPL). W.A.M. §§ 4102 and 4102.4.

The Department has promulgated regulations that set out how income is calculated for CHAP eligibility. W.A.M. § 4102.7 states:

(a) Except as provided in paragraph (b) below, a household's income shall be calculated in accordance with VHAP rule 4001.8.

(b) For Catamount ESIA and CHAP eligibility only, if the household's countable income . . . is greater than 200 percent FPL but less than or equal to 300 percent FPL, the department will disregard additional earned income in an amount up to \$400.00 per household. The program premium shall be based on income counted in accordance with this paragraph. This rule shall only apply prospectively.

For a three person household, 300% of the FPL is \$4,413.00. P-2420B3. Petitioner's countable household income exceeds the maximum for CHAP eligibility.

If petitioner finds that his monthly income decreases, petitioner can reapply for these programs.

Based on the regulations and foregoing facts, the Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

#